

REMARKS

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action dated November 19, 2007, the shortened statutory period for response having expired on February 19, 2008. Accordingly, a Petition and Fee for Extension of time are included herewith.

I. Status of the Claims

Please cancel claims 17 and 20 without prejudice, and amend claims 1, 10, 11, 12, 15, 16, 18, 19, 21 and 22 as indicated above. Claims 1 – 16, 18, 19, 21 and 22 are now pending in the application. Claims 1, 10, 15, 16, 18, 19, 21 and 22 are independent claims.

Applicants acknowledge the Examiner's citation of statutory authority as a basis for claim rejections.

II. Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 2-4 and 12-14 under 35 U.S.C. § 112 as being indefinite with respect to the term prorating.

Non-limiting examples of prorating are provided in the original specification. For example, at page 22, lines 8-10, the specification states: "If Employees decide to transfer more options than Broker Dealer 112 has hedged, then the final transfer can be prorated among the electing Employees. This serves to shift a part of the uncertainty risk to Employees 104."

In another example, beginning on page 23, line 19 through page 24, line 9, the original specification states:

In the discussions above, prorating of the options transferred has been mentioned. There are different prorating embodiments that can be used. A simple percentage prorating technique can be used to allocate the transfer among all of the employees. In this technique, if 100 employees each with 10 options elect to transfer (1000 shares total) and Broker Dealer 112 is only able to hedge 800 shares, then each of the 100 employees will be able to transfer 8 of their

options, with the remaining 2 options rolling over to the next day.

In a first-in-first-sold (or first election for transfer first transferred) prorating technique, the earliest employees to make the transfer election will receive all of their options and those employees making later transfer elections are subject to prorating if necessary. In another example, using the same 100 employees each with 10 options, if Broker Dealer 112 is only able to hedge 800 shares, then the first 80 employees who made the election will be able to transfer all of their options, the last 20 employees who made the election will roll over to the next day.

Applicants respectfully submit that the term prorating is not particularly unusual and the original specification provides non-limiting examples of the term prorating in the context of the inventions, and that the basis for the rejection under § 112 are overcome. Applicants ask that the rejection be withdrawn.

III. Rejections under 35 U.S.C. § 101

The Examiner has rejected claims 17 and 20 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, in particular software code transmitted as an information signal. Applicants respectfully disagree that software code transmitted as an information signal is not statutory subject matter, but do note that there are cases pending before the Federal Circuit that may better resolve patentability of that precise subject matter and therefore cancel claims 17 and 20 without prejudice in the present application, and expressly reserve the right to re-introduce those claims in this or another related application.

IV. Rejections under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1, 9, and 15-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,269,346 to Cristofich ("*Cristofich*") in view of Brenner et al. (Journal of Financial Economics 57 (2000)) ("*Brenner*"). Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cristofich* and *Brenner* in view of Peter Hoadley's Options Strategy Analysis Tools ("*Hoadley*"). Claims 11-15 are rejected under 35

U.S.C. § 103(a) as being unpatentable over *Cristofich* in view of *Brenner*, *Hoadley*, and official notice. Claims 2-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cristofich* in view of *Brenner*, and official notice.

With respect to the rejection of claims 1, and 15-22, the Examiner states that *Cristofich* discloses transfer of employee stock options. Applicants respectfully disagree. Any transfer of employee stock options in *Cristofich* is in the context of either initial issue of the option to the employee (which is not a transfer) or exercise of the stock option.

Claim 1 as amended recites: a method for transfer of employee stock options without exercise of the stock options, the method comprising, providing a decision period for transfer of employee stock options without exercise of the stock options, the decision period having a first part, and a second part; providing a plurality of option value prices during the first part of the decision period; and determining a stock price corresponding to a particular one of the plurality of option value prices during the second part of the decision period.

It is clear from original claim 1, and claim 1 as it is amended, that the method provides for transfer of employee stock options without exercise of the stock options. This is one of the central features of the presently claimed inventions and it is not found individually or in a combination of *Cristofich* or *Brenner*. For that reason, claim 1 is allowable over the cited references. Claims 2-9 depend directly or indirectly from claim 1 and therefore include all the limitations of claim 1. Because neither *Cristofich* nor *Brenner* disclose all the features of claim 1, they do not disclose all the features of dependent claims 2-8 and those claims are similarly allowable over the cited references. Claims 15, 16, 18, 19, 21 and 22 are rejected on the same grounds as claim 1, and withdrawal of those rejections is similarly respectfully requested.

Claim 10 as amended recites: a method for transfer of employee stock options

without exercise of the stock options, the method comprising, providing a plurality of transfer periods for transfer of employee stock options without exercise of the stock options; providing a plurality of decision periods during each transfer period; providing an option value price during each decision period; and using an option pricing formula to determine the option value price.

For claim 10, just as with claim 1, the Examiner relies on *Cristofich* for a disclosure of transferring employee stock options. However, as explained above with respect to claim 1, any transfer of employee stock options in *Cristofich* is either initial issue (which is not a transfer), or exercise. There is no disclosure in *Cristofich* of transfer of employee stock options without exercise. Because the cited references do not individually or in combination disclose or suggest all of the claimed features of claim 10, withdrawal of the rejection as to claim 10 and dependent claims 11-14 is respectfully requested.

V. Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
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February 26, 2008

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